

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2018-320-E

December __, 2020

In the Matter of:)	
)	
Joint Application of Duke Energy)	DUKE ENERGY CAROLINAS,
Carolinas, LLC and Duke Energy)	LLC'S AND DUKE ENERGY
Progress, LLC to Establish Green)	PROGRESS LLC'S PROPOSED
Source Advantage Programs and)	ORDER APPROVING GREEN
Riders GSA)	SOURCE ADVANTAGE
)	VOLUNTARY RENEWABLE
)	ENERGY PROGRAMS

This matter comes before the Public Service Commission of South Carolina (the "Commission" or "PSC") on the Joint Application of Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP," together with DEC, the "Companies" or "Duke") for approval to establish Green Source Advantage Programs and for approval of Rider GSA tariffs ("Joint Application").

The Companies initially voluntarily filed their Joint Application for Commission approval of the Green Source Advantage Programs ("GSA Programs" or "Programs") on October 10, 2018. On May 9, 2019, subsequent to the Companies filing the Joint Application, the South Carolina General Assembly passed H.3659, the South Carolina Energy Freedom Act ("Act 62" or the "Act"), enacting S.C. Code Ann. § 58-41-30. This new law directed electrical utilities to file proposed voluntary renewable energy programs for review and approval by the Commission. Under the Act, electrical utilities' voluntary renewable energy programs must allow participating customers to select the renewable

energy facility and negotiate with the renewable energy supplier on the price to be paid by the participating customer for the energy, capacity, and environmental attributes of the renewable energy facility, negotiate the term of such agreement as well as meet certain other requirements, as specified by the General Assembly. The General Assembly did not mandate a specific size of the new voluntary renewable energy programs, instead allowing the Commission to approve program size and participation at a level consistent with the public interest. S.C. Code Ann. § 58-41-30(C).

On May 29, 2019, the Commission issued Order No. 2019-397 directing Duke to review the Companies' proposed GSA Programs and to make any needed amendments to conform their proposed GSA Programs to the requirements of Act 62. On August 30, 2019, the Companies filed limited amendments to their GSA Programs, and subsequently engaged with the South Carolina Solar Business Alliance, Inc. ("SCSBA") and other interested parties in a months-long stakeholder review of the GSA Programs to resolve outstanding issues in controversy. Taking this stakeholder input into account, the Companies filed updated GSA Programs and Rider GSA tariffs with the Commission on October 23, 2020, highlighting that consensus had been reached with SCSBA on all outstanding issues, and requesting the Commission allow for final comments and then review and approve the GSA Programs. No parties filed comments in opposition to the Companies' amended GSA Programs.

Accordingly, as further addressed in this Order, the Commission hereby approves the Companies' GSA Programs as new voluntary renewable energy programs that are in the public interest and meet the requirements of Act 62.

I. Procedural History

The Companies' October 10, 2018 Joint Application proposed new Programs to enable participating eligible large customers ("GSA Customers") to direct the Companies to procure power from new renewable energy facilities dedicated to the Green Source Advantage Programs, and to facilitate GSA Customers obtaining the renewable energy attributes and renewable energy certificates ("RECs") associated with this new renewable energy generation to meet their sustainability goals. The participating GSA Customers would be responsible for negotiating all price terms with a supplier ("Renewable Supplier") of a renewable energy facility ("GSA Facility"), and the Companies would execute a purchased power agreement ("GSA PPA") with a Renewable Supplier committing its GSA Facility to the Program. The Joint Application also explained that the GSA Programs are designed to hold non-participating customers neutral from any costs associated with the Companies' procurement of additional renewable energy on behalf of GSA Customers voluntarily electing to participate in the Programs. GSA Customers will be responsible for all administrative costs and REC costs, while the avoided cost of the energy and capacity generated by GSA Facilities—which are system supply resources serving all customers—will be included in the Companies' annual fuel cost proceeding as power purchased pursuant to the Public Utility Regulatory Policies Act of 1978 ("PURPA"). The Joint Application provided details on GSA Program availability and customer eligibility as well as explained the customer bill credit and other Program design considerations. Total capacity under the initially-proposed Green Source Advantage Programs would be limited

to 150 MW, allocated between DEC (113 MW) and DEP (37 MW) based on the Companies' load/ratio split in South Carolina.

A Joint Petition to Intervene was filed by and subsequently granted as to the South Carolina Coastal Conservation League and Southern Alliance for Clean Energy ("SACE/CCL").¹ A Petition to Intervene was filed by and subsequently granted as to the SCSBA.² A Petition to Intervene was filed by and subsequently granted as to Walmart, Incorporated ("Walmart").³ A Petition to Intervene was filed by and subsequently granted as to Johnson Development Associates, Incorporated.⁴ A Petition to Intervene was filed by and subsequently granted as to the City of Greenville.⁵ The ORS is a party to this proceeding as per S.C. Code Ann. § 58-4-10(B). Letters in support of Commission approval of the Companies' Green Source Advantage Programs were also filed in this Docket by interested customer-stakeholders including Clemson University, Furman University and First Quality Tissue.

The Commission denied the Joint Application's request to waive publishing notice and holding an evidentiary hearing on the Joint Application and, instead, held in abeyance the Companies' request to waive the hearing until completion of the intervention period, subsequent to which the Commission would determine the necessity of a hearing.⁶ Public notice of the Application was completed and affidavits of publication were filed in this Docket on December 13, 2018, as directed by the Commission. The Commission did not

¹ Order No. 2018-731.

² Order No. 2018-732.

³ Order No. 2018-753.

⁴ Order No. 2020-247.

⁵ Order No. 2020-287.

⁶ Order No. 2018-735.

subsequently schedule an evidentiary hearing; instead, the Commission allowed interveners to file comments on the Joint Application.

A formal period for comment was established by a Standing Hearing Officer Directive.⁷ Initial comments were filed by SACE/CCL, SCSBA, Walmart, and ORS on January 7, 2019. Duke filed reply comments on January 28, 2019, which, in part, addressed issues of concern raised by SACE/CCL and SCSBA. The Commission then allowed SCSBA's request for additional time to file final comments on the Joint Application.⁸ Both SCSBA and SACE/CCL filed final comments on March 7, 2019. Duke then filed supplemental reply comments on March 28, 2019. In response to a request from SCSBA, the Commission allowed SCSBA a 30-day extension to file comments on the issue of Duke Energy's ownership of GSA facilities, as that issue was not specifically raised in the Joint Application.⁹ SCSBA and SACE/CCL then filed supplemental comments on May 17, 2019.

As a result of Act 62's enactment, on May 29, 2019, the Commission granted ORS's recommendation that the Companies be allowed additional time to review the proposed Green Source Advantage Programs for compliance with Act 62.¹⁰ Duke filed comments on August 20, 2019, in response to Order No. 2019-397. Through this filing, Duke withdrew the utility ownership option for GSA facilities—a primary issue opposed by SCSBA and SACE/CCL—and proposed limited modifications to the GSA Programs and Rider GSA tariffs to fully conform to the requirements of Act 62. In response to this

⁷ Order No. 2018-178-H.

⁸ Order No. 2019-94.

⁹ Order No. 2019-264.

¹⁰ Order No. 2019-397.

filing, Duke and SCSBA engaged in months-long stakeholder discussions from December 2019 through September 2020 regarding potential additional modifications to the GSA Programs in an effort to achieve consensus on the remaining contested issues. Duke and SCSBA updated the Commission on these continuing discussions via letters filed in this Docket on January 31, 2020; March 13, 2020; April 17, 2020; June 30, 2020; and September 30, 2020. On July 30, 2020, the Companies and SCSBA also held a GSA stakeholder engagement meeting with over 65 invitees to receive feedback on various GSA program ideas developed by the Companies and by SCSBA. The Companies and SCSBA subsequently also met with various stakeholder groups (individually and collectively) to further discuss feedback from stakeholders on the GSA Programs.

On October 23, 2020, Duke filed additional comments detailing certain amendments to the GSA Programs and Rider GSA tariffs previously filed with the Commission and requesting approval of the updated GSA Programs. Substantive changes to the GSA Programs agreed to between Duke and SCSBA included (i) increasing the maximum GSA Program Capacity to 200 MW from Duke's initially-proposed 150 MW of Program Capacity between the Companies; (ii) establishing an initial nine-month enrollment period for the programs, during which 150 MW of capacity will be made available to eligible DEC GSA Customers and the remaining 50 MW will be made available to eligible DEP GSA Customers, after which the remaining GSA Program Capacity will be made available to all GSA Customers on a "first come, first served" basis; (iii) establishing special reservations of capacity (25 MW for DEC and 10 MW for DEP) for local government customers and university customers during the initial nine-month

enrollment period to recognize the additional time these customer classes may require to file an application to participate in the programs; (iv) expanding the GSA Programs' availability to allow customer accounts taking service under outdoor lighting schedules to contribute towards the required minimum 1,000 kW of annual peak demand; and (v) expanding the fixed avoided cost bill credit option to include a term of 10 years ("Amended GSA Programs"). Additionally, Duke described its commitment to review the bill credit options, in consultation with SCSBA and interested stakeholders, in the event that the Amended GSA Programs are not 75 percent subscribed 12 months after the nine-month enrollment period opens. In addition to resolving all remaining issues in contention with SCSBA, Duke also noted the Amended GSA Programs resolved all significant issues in contention with SACE/CCL, and that SACE/CCL supported Commission approval of the Amended GSA Programs. In its October 23, 2020 filing, Duke renewed the Companies' request for the Commission to approve the Amended GSA Programs after allowing a final 30-day period for comment.

In response to Duke's additional comments presenting the Amended GSA Programs and updated Rider GSA tariffs, SCSBA and Walmart filed comments in support of Commission approval. SCSBA's comments specifically highlighted Duke's agreement to review the various bill credit options available to GSA Customers, if the Amended GSA Programs are not 75 percent subscribed within 12 months of the enrollment period opening. ORS filed a letter stating that it has no objection to the Commission approving the Companies' Amended GSA Programs with the inclusion of minor modifications to the Rider GSA tariff language to enhance program clarity for potential GSA Customers. Duke

filed a letter responding to ORS's proposed modifications to the Rider GSA tariffs, agreeing to adopt the recommendations, with ministerial corrections, to which ORS concurred. Duke committed to including the ORS recommended modifications to the Rider GSA tariffs, as corrected, in the Companies' compliance filing upon Commission approval of the Amended GSA Programs.

II. Statutory Standards and Required Findings

Act 62 directed electric utilities to file voluntary renewable energy programs and for the Commission to conduct a proceeding to review the program and establish reasonable terms and conditions for the program. The Act also provides that interested parties shall have the right to participate in the proceeding. S.C. Code Ann. § 58-41-30(A).

Act 62 further prescribes specific voluntary renewable energy program design requirements, including providing standard terms and conditions for participating customer agreements and renewable energy contracts between the utility and renewable energy supplier. S.C. Code Ann. § 58-41-30(A)-(E). Importantly, these statutory requirements include, but are not limited to, ensuring that participating customers bear the costs of participating in a utility's voluntary renewable energy program, such that nonparticipating customers are not responsible for any costs incurred to offer the voluntary renewable energy program under Act 62. S.C. Code Ann. § 58-41-30(D).

III. Findings of Fact and Conclusions of Law

Duke's Joint Application requested waiver of the requirements for notice and hearing. Under the terms of S.C. Code Ann. § 58-27-870(F), a proposed tariff may be put into effect without notice and a hearing, inter alia, when the tariff is for experimental

purposes, does not require a determination of the entire rate structure and overall rate of return, or does not result in a rate increase, each of which is true in this case. Further, Act 62 provides that interested parties shall have the right to participate in this proceeding before the Commission to review and approve new voluntary renewable energy programs. S.C. Code Ann. § 58-41-30(A).

The Commission has required public notice of the Joint Application, allowed intervention of interested parties, and afforded extensive opportunities for comments on the Companies' Joint Application as well as on the Amended GSA Programs now before the Commission for approval. In light of the extensive comments filed by parties in this proceeding, the stakeholder engagement between Duke, SCSBA and other interested parties, as well as the comprehensive resolution of contested issues between the parties in this case, the Commission finds that a hearing is not necessary for resolution of the Companies' Joint Application. Accordingly, since the Commission has received no objections from the parties and given the robust nature of this Docket, including stakeholder engagement and filed comments, Duke's request for waiver of the hearing is granted.

Turning to the Companies' Joint Application, as subsequently modified and now before the Commission, the Commission finds that the Companies' Amended GSA Programs meet the requirements of Act 62 and should be approved.

The Amended GSA Programs enable participating GSA Customers to select the renewable energy facility and negotiate with a Renewable Supplier on the price to be paid by the participating customer for the energy, capacity, and environmental attributes of the

renewable energy facility. S.C. Code Ann. § 58-41-30(A)(1). Specifically, the Rider GSA tariffs provide that GSA Customers can negotiate the price terms of the RECs or environmental attributes, while non-participating customers are held harmless because the GSA PPA pricing is fixed at the Companies' avoided cost of capacity and energy.

GSA Customers may also select a term for participating in the Amended GSA Programs up to 20 years, while the Rider GSA tariffs provide that the term of the GSA PPA and the participating customer agreement called the "GSA Service Agreement" shall be of equal duration, as required by Act 62. S.C. Code Ann. § 58-41-30(A)(1)-(2).

The Monthly Rate section of the Rider GSA tariffs provides GSA Customers the option to select an administratively-established avoided cost bill credit option fixed over two years, five years, or ten years, or an hourly marginal avoided cost bill credit based upon the Companies' real time system marginal costs. The GSA Customer would continue paying its retail bill and would pay the sum of the GSA Bill Credit as well as the GSA Product Charge. The Rider GSA tariffs also provide for a GSA Monthly Administrative Charge of \$375 per month plus an additional \$50 per additional account billed where a GSA Customer aggregates multiple accounts under a GSA Service Agreement. This rate structure meets the requirements of S.C. Code Ann. § 58-41-30(A)(3) and provides for both variable and fixed generation credit options as contemplated by S.C. Code Ann. § 58-41-30(C). The Administrative Charge and offsetting GSA Bill Credit and GSA Product Charge are designed to ensure that participating GSA Customers bear the full cost of participating in the Amended GSA Programs, while the Companies will seek recovery of the avoided capacity and avoided energy costs of these system supply resources in the

Companies' annual fuel proceeding pursuant to S.C. Code Ann. § 58-27-865(A)(2)(c). The Commission reiterates that Duke shall not charge any nonparticipating customers for any costs incurred under these voluntary renewable energy programs. S.C. Code Ann. § 58-41-30(D).

The Commission also recognizes Duke's commitment to SCSBA to review the bill credit options if the Companies' GSA Programs are not 75 percent subscribed within 12 months of the enrollment period opening. To the extent Duke, with input from SCSBA, determines in the future that changes to the Amended GSA Programs' bill credit options are appropriate, Duke should present those changes to the Commission for review and approval.

The Amended GSA Programs and Rider GSA tariffs meet Act 62's requirements by providing that renewable energy facilities may be located anywhere in the Companies' assigned service territories in either South Carolina or North Carolina. S.C. Code Ann. § 58-41-30(E). The Amended GSA Programs also allow eligible customers to bundle their demand and to aggregate their service accounts to participate in the programs under a single GSA Service Agreement, as required by Act 62. S.C. Code Ann. § 58-41-30(A)(4). The Commission also notes that Duke has adopted stakeholder-recommended changes to allow customer accounts taking service under outdoor lighting schedules to contribute towards the required minimum 1,000 kW of annual peak demand required to participate in the Programs.

Based upon the comments of the parties, the Commission finds that Duke's increase in maximum available Program capacity from 150 MW in the initial Joint Application to

200 MW in the Amended GSA Programs is at a level consistent with the public interest. S.C. Code Ann. § 58-41-30(C). The Commission also finds Duke's allocation of this capacity between DEC (150 MW) and DEP (50 MW) based on the Companies' load/ratio split in South Carolina to be reasonable. The Commission also recognizes Duke's agreement to the ORS's proposed changes to the Rider GSA tariffs, and directs Duke to include such agreed-upon changes in a compliance filing within 15 days of this Order.

The Commission further finds that Duke's designation of an initial nine-month enrollment period and special reservations of capacity (25 MW for DEC and 10 MW for DEP) for local government customers and university customers (as defined in Duke's additional comments supporting the Amended GSA Programs) during this period are reasonable and recognize the additional time these customer classes may require to file applications to participate in the Programs. Within 30 days after the initial enrollment period ends, the Companies should update the Commission of any remaining Program capacity, which should then be made available to all customers on a "first come, first served" basis.

Finally, the Commission finds that the Companies' Rider GSA tariffs establish reasonable and appropriate standardized terms and conditions for the participating customer agreements and GSA PPAs. S.C. Code Ann. § 58-41-30(C).

Based on the Commission's review of the Companies' Joint Application, as modified through the Amended GSA Programs to incorporate stakeholder input, the extensive comments of ORS and intervenors, as well as all of the comments filed in this

Docket, the Commission approves the Companies' Green Source Advantage Programs as addressed herein.

IT IS THEREFORE ORDERED THAT:

1. The Companies' Green Source Advantage Programs are hereby approved consistent with this Order.
1. DEC and DEP shall file their revised Rider GSA tariffs within 15 days of this Order using the Commission's E-Tariff filing system. The tariffs shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.
2. Within 30 days after the initial nine-month enrollment period ends, the Companies should update the Commission of any remaining Program capacity, which should then be made available to all customers on a "first come, first served" basis.
3. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

Justin T. Williams, Chairman

ATTEST:

Jocelyn Boyd, Chief Clerk/Executive Director

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